

State of Maryland

BOARD OF PUBLIC WORKS ADVISORY

*BPW Advisory No.:* **2002-2**

*Date:* **May 1, 2002**

*Subject:* **Novation or Change of Name**

*Effective Date:* **Immediately**

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*Purpose:* To notify State agencies that the Procurement Regulations require that a State contractor may not transfer, assign, or change the name in which it holds a procurement contract until the Procurement Officer provides written consent. COMAR 21.05.02.24. This Advisory sets forth the necessary procedures when such a request is made.

*Novation:* Before approving a successor-in-interest to a State contract, the Procurement Officer should complete this checklist:

- Has the successor-in-interest completed the Contract Affidavit?
- Is the successor-in-interest eligible to perform State contracts (i.e., not suspended, debarred, or otherwise determined to be not responsible)?
- Has the successor-in-interest furnished a performance bond equivalent to the original contractor's bond, or does the original contractor guarantee performance?
- Are the rights and obligations of the contracting parties spelled out in a novation agreement approved by the Office of the Attorney General?
- Has the name change been made in ADPICS?

*Change of Name:* If a contractor is simply requesting to change the name in which it holds a State contract, the Procurement Officer will enter into an agreement with the contractor to effect the name change. The agreement must indicate that no other terms and conditions of the contract are changed. The name change must be made in ADPICS.

*Board Agenda Items:* If a contract option or modification requiring Board approval involves a company that has changed names or a successor-in-interest, the procurement agency must include the name of the original contracting party and a brief explanation of circumstances (novation or name change) in the



Action Agenda Item. A copy of the novation agreement or name change agreement must be included as back-up. The contractor named in the Board item and the contractor named in ADPICS must be identical.

Question concerning this Advisory may be addressed to:

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